

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD

December 9, 2008

Department of Environmental Quality, DEQ Building #2

Conference Room 101

168 N 1950 W

Salt Lake City, Utah 84114-4850

BOARD MEMBERS PRESENT

Peter A. Jenkins, M.S., CHP, Chair
Elizabeth Goryunova, M.S., Vice Chair
William J. Sinclair, Acting Exec. Director
Dane L. Finerfrock, Executive Secretary
Scott Bird
Patrick D. Cone
Frank D. DeRosso, MSPH, C.I.H.
Christian K. Gardner
Edd C. Johnson
Douglas S. Kimball, DMD
Joseph K. Miner, M.D., MSPH
John W. Thomson, M.D.
David A. Tripp, Ph.D.

PUBLIC

Judy Fahys, Salt Lake Tribune
Julie R. Felice, IHC
Karen Langley, University of Utah
Romaine Marshall, Holland & Hart
Tye Rogers, EnergySolutions
Dan Shrum, EnergySolutions
Christopher Thomas, HEAL-Utah

BOARD MEMBERS ABSENT/EXCUSED

Joette E. Langianese, Commissioner

**DRC STAFF/OTHER DEQ MEMBERS
PRESENT**

Mario Bettolo, DRC Staff
Phil Goble, DRC Staff
John Hultquist, DRC Section Manager
David Hogge, DRC Staff
Craig Jones, DRC Section Manager
Laura Lockhart, Attorney General's Office
Loren Morton, DRC Section Manager
Yoli Necochea, DRC Staff
Fred Nelson, Attorney General's Office

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ), Conference Room 101, 168 North 1950 West, DEQ Bldg. 2, Salt Lake City, Utah. Peter A. Jenkins, Chair, called the meeting to order at 3:00 p.m. He welcomed the Board Members and the public. Chairman Jenkins indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of the Minutes from the October 14, 2008 Board Meeting

Peter A. Jenkins, Chair, asked the Board for corrections to the minutes from October 14, 2008. There were no corrections.

MOTION MADE BY JOHN W. THOMSON TO APPROVE THE MINUTES AS WRITTEN.

MOTION SECONDED BY DAVID A. TRIPP

MOTION CARRIED AND PASSED UNANIMOUSLY

II. RULES (Board Action Items)

a. Approval for a 30-day Public Comment Period for Changes to Rule R313-21, "General Licenses"

Mario Bettolo, DRC Staff, explained that at the October 14, 2008, Board meeting the Board approved the proposed changes to rule R313-21. They also granted their approval for a 30-day public comment period for the rules. On November 1, 2008, the changes were published in the Utah Rules Digest. The public comment period began November 1, 2008, and ran through December 1, 2008. R313-21 was submitted to the U.S. Nuclear Regulatory Commission (NRC) for a compatibility review. On November 24, 2008, the Executive Secretary received a letter from the NRC requesting two additional changes to R313-21 in order for the rule to meet compatibility requirements. At the time of writing of the rules the Division had not received any public comments, nor was there any proposed changes requested to R313-21. When submitting a request for substantial rule changes a 30-day public comment period is required.

RECOMMENDATION:

The Executive Secretary recommended that the Board approve the suggested changes; and direct staff to file a change in the proposed rule; and send the rules out for a 30-day public comment period beginning on January 1, 2009.

MOTION MADE BY FRANK D. DeROSSO TO APPROVE THE CHANGES AND TO DIRECT STAFF TO SEND R313-21 FOR A 30-DAY PUBLIC COMMENT PERIOD

SECONDED BY PATRICK D. CONE

MOTION CARRIED AND PASSED UNANIMOUSLY

- b. Approval for a 30-day Public Comment Period for Changes to Rule R313-22, “Specific Licenses,” and R313-32, “Medical Uses of Radioactive Material”**

David Hogge, DRC Staff, explained to the Board that recently, the Division of Radiation Control (DRC) was notified by the U.S. Nuclear Regulatory Commission (NRC) of updates to 10 CFR Part 32 and 10 CFR Part 35. NRC identified a number of clerical, typographical, and omission errors. The updates have **effected** DRC rules, particularly R313-22-75(9), R313-22-75(10), and R313-32 which incorporates the 2005 edition by reference. It has also been updated to incorporate the 2007 edition of 10 CFR Part 35. Revision of the rules is needed to maintain compatibility with NRC rules.

RECOMMENDATION:

The Executive Secretary recommended that the Board approve the suggested changes and direct staff to file the proposed revisions for a 30-day public comment period to begin on January 1, 2009.

MOTION MADE BY EDD JOHNSON TO APPROVE THE CHANGES TO R313-22 AND R313-32 AND TO DIRECT STAFF TO FILE THE PROPOSED REVISIONS FOR A 30-DAY PUBLIC COMMENT PERIOD

SECONDED BY DOUGLAS S. KIMBALL

MOTION CARRIED AND PASSED UNANIMOUSLY

- c. Approval of the Final Rule, R313-38, “Licenses and Radiation Safety for Well Logging”**

Mario Bettolo, DRC Staff, explained that on October 14, 2008, the Executive Secretary recommended that the Board approve the proposed changes to R313-38. And to direct staff to file this rule to go forward for a 30-day public comment period. The Board granted their approval. On November 1, 2008, proposed changes to the above stated rules were published in the Utah Rules Digest. The public comment period began November 1, 2008, and ran through December 1, 2008. During the public comment period there were no comments received regarding the proposed changes.

RECOMMENDATION:

The Executive Secretary recommended that the Board approve the proposed changes and that they direct staff to file R313-21 as final rules with an effective date of December 15, 2008.

**MOTION MADE BY EDD JOHNSON TO APPROVE THE
CHANGES AND TO DIRECT STAFF TO FILE R313-21 AS A
FINAL RULE**

SECONDED BY ELIZABETH GORYUNOVA

MOTION CARRIED AND PASSED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

a. Authorities and Procedures of the Radiation Control Board

Fred Nelson, Attorney, informed the Board that he would be reporting on this item. He said that he would briefly go over each tab in the document entitled “Authorities and Statutes of the Utah Radiation Control Act.” Mr. Nelson handed this document to each of the Board members. Mr. Nelson said that he would explain the jurisdiction and duties they had as Board members in adjudicated hearings and in appeals where the Board acts as Judge. He said this would help them when facing an appeal such as the one they would have in the upcoming month of January, 2009 (the pleading of Cedar Mountain Environmental (CME) versus *EnergySolutions*).

The following issues were explained:

Authorities and Statutes:

- Board Structure and Authorities
- Utah Radiation Control Act
- Open Meetings Checklist and Act
- Ethics and Conflicts of Interest

See attached document.

**IV. X-RAY REGISTRATION/INSPECTION
No Items**

**V. RADIOACTIVE WASTE
No Items**

**VI. URANIUM MILL TAILINGS UPDATE
No Items**

VII. OTHER DIVISION ISSUES (Board Information Item)

a. Board Membership Changes

Dane Finerfrock, Executive Secretary, reported that Richard (Rick) W. Sprott, Executive Director to the Department of Environmental Quality (DEQ), had recently retired on December 4, 2008. Mr. Finerfrock announced that because of this Governor Jon M. Huntsman, Jr., appointed William J. Sinclair, (who was currently the Deputy Director of DEQ) as the Acting Executive Director for the Department. Mr. Finerfrock said Mr. Sinclair would be attending all of the Division's Board meetings until the Governor would appoint the next Executive Director for the Department of Environmental Quality.

VIII. PUBLIC COMMENT

No Items

IX. The Next Scheduled Board Meeting: January 13, 2009 (Tuesday), DEQ Bldg #2, Conference Room 101, 168 North 1950 West, Salt Lake City, Utah 3:00 – 5:00 P.M.

THE BOARD MEETING ADJOURNED AT 4:23 P.M.